

AMENDED IN SENATE JANUARY 17, 2014

AMENDED IN SENATE SEPTEMBER 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 485**

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**Introduced by Assembly Member Gomez**

February 19, 2013

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An act to amend Sections 110003, 110005, 110006, 110007, 110008, 110009, 110011, and 110021 of, and to amend and repeal Section 6253.2 of, the Government Code, to amend Sections 12300.5, 12300.7, and 14186.35 of, to amend and repeal Sections 10101.1, 12306, and 12306.1 of, and to repeal Section 12302.25 of, the Welfare and Institutions Code, and to amend Section 34 of Chapter 37 of the Statutes of 2013, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 485, as amended, Gomez. In-home supportive services.

Existing law establishes the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

Existing law establishes, as part of the Coordinated Care Initiative, the In-Home Supportive Services Employer-Employee Relations Act, which serves to resolve disputes regarding wages, benefits, and other terms and conditions of employment between the California In-Home

Supportive Services Authority (Statewide Authority) and recognized employee organizations providing in-home supportive services. Existing law establishes the Statewide Authority and requires the authority to be the entity authorized to meet and confer in good faith regarding wages, benefits, and other terms and conditions of employment with representatives of recognized employee organizations for any individual provider who is employed by a recipient of supportive services.

Existing law provides, as part of the Coordinated Care Initiative, that IHSS is a Medi-Cal benefit available through managed care health care plans in specified counties and requires enrollment of eligible Medi-Cal beneficiaries into managed care pursuant to a specified demonstration project or other provisions, including managed care for long-term services and supports, as one of the conditions that would be required to be completed before the Statewide Authority assumes the specified responsibilities. Existing law provides that no sooner than March 1, 2013, the Statewide Authority shall assume specified responsibilities in a county or city and county upon notification by the Director of Health Care Services that the enrollment of eligible Medi-Cal beneficiaries described in specified provisions of law has been completed in that county or city and county. Under existing law, in counties where IHSS is a Medi-Cal benefit available through managed care health plans, those health plans are required to assume specified duties, including entering into a memorandum of understanding with a county agency to perform specified activities, after the director provides that notification. Under existing law, the assumption of these responsibilities by the Statewide Authority is also known as the county implementation date.

This bill would, instead, make the implementation date ~~January 1, 2014~~, *January 1, 2015*, would delete the reference to the “county” implementation date, and would make conforming changes.

Existing law conditions implementation of the Coordinated Care Initiative, as defined, on whether the Director of Finance estimates that the Coordinated Care Initiative will generate net General Fund savings, as specified. Existing law, with certain exceptions, specifies those provisions of law that are within the scope of the initiative to become inoperative if this condition is not met.

This bill would modify the definition of the Coordinate Care Initiative for the purposes of determining which provisions become inoperative if the condition is not met, and exclude, among others, those provisions that establish the In-Home Supportive Services Employer-Employee

Relations Act, establish the Statewide Authority and determine the duties of, and when those duties are assumed by, the authority, establish the IHSS Fund, which is used to fund the Statewide Authority, and require all counties, commencing July 1, 2012, to have a County IHSS Maintenance of Effort (MOE) and to pay the County IHSS MOE instead of paying the nonfederal share of IHSS costs, as specified. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6253.2 of the Government Code, as  
2 amended by Section 1 of Chapter 37 of the Statutes of 2013, is  
3 amended to read:

4 6253.2. (a) Notwithstanding any other provision of this chapter  
5 to the contrary, information regarding persons paid by the state to  
6 provide in-home supportive services pursuant to Article 7  
7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
8 Division 9 of the Welfare and Institutions Code, or services  
9 provided pursuant to Section 14132.95, 14132.952, or 14132.956  
10 of the Welfare and Institutions Code, is not subject to public  
11 disclosure pursuant to this chapter, except as provided in  
12 subdivision (b).

13 (b) Copies of names, addresses, and telephone numbers of  
14 persons described in subdivision (a) shall be made available, upon  
15 request, to an exclusive bargaining agent and to any labor  
16 organization seeking representation rights pursuant to Section  
17 12301.6 or 12302.25 of the Welfare and Institutions Code or the  
18 In-Home Supportive Services Employer-Employee Relations Act  
19 (Title 23 (commencing with Section 110000)). This information  
20 shall not be used by the receiving entity for any purpose other than  
21 the employee organizing, representation, and assistance activities  
22 of the labor organization.

23 (c) This section applies solely to individuals who provide  
24 services under the In-Home Supportive Services Program (Article  
25 7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
26 Division 9 of the Welfare and Institutions Code), the Personal Care  
27 Services Program pursuant to Section 14132.95 of the Welfare  
28 and Institutions Code, the In-Home Supportive Services Plus

1 Option pursuant to Section 14132.952 of the Welfare and  
2 Institutions Code, or the Community First Choice Option pursuant  
3 to Section 14132.956 of the Welfare and Institutions Code.

4 (d) Nothing in this section is intended to alter or shall be  
5 interpreted to alter the rights of parties under the In-Home  
6 Supportive Services Employer-Employee Relations Act (Title 23  
7 (commencing with Section 110000)) or any other labor relations  
8 law.

9 SEC. 2. Section 6253.2 of the Government Code, as amended  
10 by Section 2 of Chapter 37 of the Statutes of 2013, is repealed.

11 SEC. 3. Section 110003 of the Government Code is amended  
12 to read:

13 110003. As used in this title:

14 (a) “Board” means the Public Employment Relations Board  
15 established pursuant to Section 3541.

16 (b) “Employee” or “individual provider” means any person  
17 authorized to provide in-home supportive services pursuant to  
18 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
19 3 of Division 9 of the Welfare and Institutions Code, and Sections  
20 14132.95, 14132.952, and 14132.956 of the Welfare and  
21 Institutions Code, pursuant to the individual provider mode, as  
22 referenced in Section 12302.2 of the Welfare and Institutions Code.  
23 As used in this title, “employee” or “individual provider” does not  
24 include any person providing in-home supportive services pursuant  
25 to the county-employed homemaker mode or the contractor mode,  
26 as authorized in Section 12302 of the Welfare and Institutions  
27 Code. Individual providers shall not be deemed to be employees  
28 of the Statewide Authority for any other purpose, except as  
29 expressly set forth in this title.

30 (c) “Employee organization” means an organization that includes  
31 employees, as defined in subdivision (b), and that has as one of  
32 its primary purposes representing those employees in their relations  
33 with the Statewide Authority.

34 (d) “Employer” means, for the purposes of collective bargaining,  
35 the Statewide Authority established pursuant to Section 6531.5.  
36 The in-home supportive services recipient shall be the employer  
37 of an individual in-home supportive services provider with the  
38 unconditional and exclusive right to hire, fire, and supervise his  
39 or her provider.

1 (e) “In-home supportive services” or “IHSS” means services  
2 provided pursuant to Article 7 (commencing with Section 12300)  
3 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions  
4 Code, and Sections 14132.95, 14132.952, and 14132.956 of the  
5 Welfare and Institutions Code.

6 (f) “In-home supportive services recipient” means the individual  
7 who receives the in-home supportive services provided by the  
8 individual provider. The in-home supportive services recipient is  
9 the employer for the purposes of hiring, firing, and supervising  
10 his or her respective individual provider.

11 (g) “Mediation” means effort by an impartial third party to assist  
12 in reconciling a dispute regarding wages, benefits, and other terms  
13 and conditions of employment, as defined in Section 110023,  
14 between representatives of the employer and the recognized  
15 employee organization or recognized employee organizations  
16 through interpretation, suggestion, and advice.

17 (h) “Meet and confer in good faith” means that the employer,  
18 or those representatives as it may designate, and representatives  
19 of recognized employee organizations, shall have the mutual  
20 obligation personally to meet and confer promptly upon request  
21 by either party and continue for a reasonable period of time in  
22 order to exchange freely information, opinions, and proposals, and  
23 to endeavor to reach agreement on matters within the scope of  
24 representation prior to the adoption of the annual Budget Act.

25 (i) “Predecessor agency” means a county or an entity established  
26 pursuant to Section 12301.6 of the Welfare and Institutions Code  
27 before the effective date of this title.

28 (j) “Recognized employee organization” means an employee  
29 organization that has been formally acknowledged as follows:

30 (1) Before the implementation date as described in subdivision  
31 (a) of Section 12300.7 of the Welfare and Institutions Code, by a  
32 county or an entity established pursuant to Section 12301.6 of the  
33 Welfare and Institutions Code, as the representative of individual  
34 providers in its jurisdiction.

35 (2) On or after the implementation date as described in  
36 subdivision (a) of Section 12300.7 of the Welfare and Institutions  
37 Code, by the Statewide Authority, as the representative of  
38 individual providers subject to this title.

1 (k) “Statewide Authority” means the California In-Home  
2 Supportive Services Authority established pursuant to Section  
3 6531.5.

4 SEC. 4. Section 110005 of the Government Code is amended  
5 to read:

6 110005. For the purposes of this title, the implementation date  
7 is defined in subdivision (a) of Section 12300.7 of the Welfare and  
8 Institutions Code.

9 SEC. 5. Section 110006 of the Government Code is amended  
10 to read:

11 110006. For purposes of collective bargaining, and as expressly  
12 set forth in subdivision (d) of Section 110003, the Statewide  
13 Authority is deemed to be the employer of record of individual  
14 providers in each county as of the implementation date. In-home  
15 supportive services recipients shall retain the right to hire, fire,  
16 and supervise the work of the individual providers providing  
17 services to them.

18 SEC. 6. Section 110007 of the Government Code is amended  
19 to read:

20 110007. Individual providers employed by any predecessor  
21 agency as of the implementation date shall retain employee status  
22 and shall not be required by the Statewide Authority to requalify  
23 to receive payment for providing services pursuant to Article 7  
24 (commencing with Section 12300) of Chapter 3 of Part 3 of  
25 Division 9 of the Welfare and Institutions Code. In the same  
26 manner as set forth in subdivision (e) of Section 12305.86 of the  
27 Welfare and Institutions Code, the Statewide Authority shall accept  
28 a clearance that was obtained or accepted by any predecessor  
29 agency pursuant to Article 7 (commencing with Section 12300)  
30 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions  
31 Code. Existence of a clearance shall be determined by verification  
32 through the case management, information, and payroll system of  
33 the predecessor agency that the predecessor agency has deemed  
34 the provider to be eligible to receive payment for providing services  
35 pursuant to Article 7 (commencing with Section 12300) of Chapter  
36 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

37 SEC. 7. Section 110008 of the Government Code is amended  
38 to read:

39 110008. On the implementation date, separate bargaining units  
40 shall be created consistent with the bargaining units that have been

1 recognized by predecessor agencies. Bargaining units consisting  
2 of employees in a single county shall be the only appropriate unit  
3 for collective bargaining under this title. In those counties where  
4 no recognized employee organization exists as of the  
5 implementation date, a bargaining unit consisting of all employees  
6 in that county shall be deemed an appropriate unit for collective  
7 bargaining.

8 SEC. 8. Section 110009 of the Government Code is amended  
9 to read:

10 110009. If, on the implementation date, individual providers  
11 are represented by a recognized employee organization, the  
12 Statewide Authority shall be deemed the successor employer of  
13 the predecessor agency for the purposes of negotiating a collective  
14 bargaining agreement, and shall be obligated to recognize and to  
15 meet and confer in good faith with the recognized employee  
16 organization on all matters within the scope of representation, as  
17 defined in Section 110023, as to those individual providers.

18 SEC. 9. Section 110011 of the Government Code is amended  
19 to read:

20 110011. (a) Except as otherwise expressly provided in this  
21 title, the enactment of this title shall not be a cause for the employer  
22 or any predecessor agency to modify or eliminate any existing  
23 memorandum of agreement or understanding, or to modify existing  
24 wages, benefits, or other terms and conditions of employment.  
25 Except to the extent set forth in this title, the enactment of this title  
26 shall not prevent the modification of existing wages, benefits, or  
27 terms and conditions of employment through the meet and confer  
28 in good faith process or, in those situations in which the employees  
29 are not represented by a recognized employee organization, through  
30 appropriate procedures.

31 (b) On the implementation date, subject to Section 12306.15 of  
32 the Welfare and Institutions Code, the Statewide Authority shall  
33 assume the predecessor agency's rights and obligations under any  
34 memorandum of understanding or agreement between the  
35 predecessor agency and a recognized employee organization that  
36 is in effect on the implementation date for the duration thereof.  
37 Absent mutual consent to reopen, the terms of any transferred  
38 memorandum of understanding or agreement shall continue until  
39 the memorandum of understanding or agreement has expired. If a  
40 memorandum of understanding or agreement between a recognized

1 employee organization and a predecessor agency has expired and  
2 has not been replaced by a successor memorandum of  
3 understanding or agreement as of the implementation date, the  
4 Statewide Authority shall assume the obligation to meet and confer  
5 in good faith with the recognized employee organization.

6 (c) Notwithstanding any other provision of law, except to the  
7 extent set forth in this chapter and as limited by Section 110023,  
8 the terms and conditions of any memorandum of understanding  
9 or agreement between a predecessor agency and a recognized  
10 employee organization in effect on the implementation date shall  
11 not be reduced, except by mutual agreement between the  
12 recognized employee organization and the Statewide Authority.

13 (d) Nothing in this title shall be construed to relieve any  
14 predecessor agency of its obligation to meet and confer in good  
15 faith with a recognized employee organization pursuant to the  
16 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
17 3500) of Division 4 of Title 1) until the implementation date.  
18 Nothing in this title shall permit the predecessor agency to meet  
19 and confer after the Statewide Authority assumes the predecessor  
20 agency's rights and obligations on the implementation date.

21 (e) With the exception of all economic terms covered by Section  
22 12306.15 of the Welfare and Institutions Code and notwithstanding  
23 any other provision of law, beginning July 1, 2012, and ending on  
24 the implementation date as set forth in subdivision (a) of Section  
25 12300.7 of the Welfare and Institutions Code, any alterations or  
26 modifications to either current or expired memoranda of  
27 understanding that were in effect on July 1, 2012, and any newly  
28 negotiated memoranda of understanding or agreements reached  
29 after July 1, 2012, shall be submitted for review to the State  
30 Department of Social Services, hereafter referred to as the  
31 department. This review shall be performed by the department  
32 until the Statewide Authority becomes operational, after which  
33 date the Statewide Authority shall continue to perform this review.  
34 If, upon review, but not later than 180 days before the  
35 implementation date, the department or Statewide Authority  
36 reasonably determines that there are one or more newly negotiated  
37 or amended noneconomic terms in the memorandum of  
38 understanding or agreement to which it objects for a bona fide  
39 business-related reason, the department or Statewide Authority  
40 shall provide written notice to the signatory recognized employee

1 organization of each objection and the reason for it. Upon demand  
2 from the recognized employee organization, the department, or  
3 the Statewide Authority, those parties shall meet and confer  
4 regarding the objection and endeavor to reach agreement prior to  
5 the implementation date. If an agreement is reached, it shall not  
6 become effective prior to the implementation date. If an agreement  
7 is not reached by the implementation date, the objectionable  
8 language is deemed inoperable as of the implementation date. All  
9 terms to which no objection is made shall be deemed accepted by  
10 the Statewide Authority. If the Statewide Authority or the  
11 department fails to provide the 180 days' notice of objection, it  
12 shall be deemed waived.

13 SEC. 10. Section 110021 of the Government Code is amended  
14 to read:

15 110021. If a predecessor agency is party to any memorandum  
16 of understanding or agreement with any bargaining unit that  
17 includes individual providers that contains an agency shop  
18 provision as of the effective date of this title, the predecessor  
19 agency and the employer shall be obligated to honor the terms of  
20 the agency shop provision, including indemnification provisions,  
21 if any, for the duration of the memorandum of understanding or  
22 agreement, and until the adoption of a successor memorandum of  
23 understanding or agreement. However, upon the request of a  
24 recognized employee organization, an agency shop provision in  
25 effect on the implementation date may be reopened for the sole  
26 purpose of renegotiating the terms of that provision in accordance  
27 with this title. The implementation of this title shall not be a cause  
28 for a new agency shop election.

29 SEC. 11. Section 10101.1 of the Welfare and Institutions Code,  
30 as amended by Section 5 of Chapter 37 of the Statutes of 2013, is  
31 amended to read:

32 10101.1. (a) For the 1991–92 fiscal year and each fiscal year  
33 thereafter, the state's share of the costs of the county services block  
34 grant and the in-home supportive services administration  
35 requirements shall be 70 percent of the actual nonfederal  
36 expenditures or the amount appropriated by the Legislature for  
37 that purpose, whichever is less.

38 (b) Federal funds received under Title 20 of the federal Social  
39 Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the  
40 Legislature for the county services block grant and the in-home

1 supportive services administration shall be considered part of the  
2 state share of cost and not part of the federal expenditures for this  
3 purpose.

4 (c) For the period during which Section 12306.15 is operative,  
5 each county's share of the nonfederal costs of the county services  
6 block grant and the in-home supportive services administration  
7 requirements as specified in subdivision (a) shall remain, but the  
8 County IHSS Maintenance of Effort pursuant to Section 12306.15  
9 shall be in lieu of that share.

10 SEC. 12. Section 10101.1 of the Welfare and Institutions Code,  
11 as amended by Section 6 of Chapter 37 of the Statutes of 2013, is  
12 repealed.

13 SEC. 13. Section 12300.5 of the Welfare and Institutions Code  
14 is amended to read:

15 12300.5. (a) The California In-Home Supportive Services  
16 Authority, hereafter referred to as the Statewide Authority,  
17 established pursuant to Section 6531.5 of the Government Code,  
18 shall be the entity authorized to meet and confer in good faith  
19 regarding wages, benefits, and other terms and conditions of  
20 employment in accordance with Title 23 (commencing with Section  
21 110000) of the Government Code, with representatives of  
22 recognized employee organizations for any individual provider  
23 who is employed by a recipient of in-home supportive services  
24 described in Section 12300 after the implementation date as  
25 described in subdivision (a) of Section 12300.7.

26 (b) The Statewide Authority and the Department of Human  
27 Resources and other state departments may enter into a  
28 memorandum of understanding or other agreement to have the  
29 Department of Human Resources meet and confer on behalf of the  
30 Statewide Authority for the purposes described in subdivision (a)  
31 or to provide the Statewide Authority with other services,  
32 including, but not limited to, administrative and legal services.

33 (c) The state, the Statewide Authority, or any county that has  
34 met the conditions in Section 12300.7 shall not be deemed to be  
35 the employer of any individual provider who is employed by a  
36 recipient of in-home supportive services as described in Section  
37 12300 for purposes of liability due to the negligence or intentional  
38 torts of the individual provider.

39 SEC. 14. Section 12300.7 of the Welfare and Institutions Code  
40 is amended to read:

1 12300.7. (a) On January 1, ~~2014~~, 2015, the California In-Home  
2 Supportive Services Authority shall assume the responsibilities  
3 set forth in Title 23 (commencing with Section 110000) of the  
4 Government Code.

5 (b) A county or city and county, subject to subdivision (a), shall  
6 do one or both of the following:

7 (1) Have the entity that performed functions set forth in the  
8 county ordinance or contract in effect prior to January 1, ~~2014~~,  
9 2015, and established pursuant to Section 12301.6 continue to  
10 perform those functions, excluding subdivision (c) of that section.

11 (2) Assume the functions performed by the entity, prior to  
12 January 1, ~~2014~~, 2015, pursuant to Section 12301.6, excluding  
13 subdivision (c) of that section.

14 (c) If a county or city and county assumes the functions  
15 described in paragraph (2) of subdivision (b), it may establish or  
16 contract with an entity for the performance of any or all of the  
17 functions assumed.

18 SEC. 15. Section 12302.25 of the Welfare and Institutions  
19 Code, as amended by Section 34 of Chapter 8 of the Statutes of  
20 2011, is repealed.

21 SEC. 16. Section 12306 of the Welfare and Institutions Code,  
22 as amended by Section 8 of Chapter 37 of the Statutes of 2013, is  
23 amended to read:

24 12306. (a) The state and counties shall share the annual cost  
25 of providing services under this article as specified in this section.

26 (b) Except as provided in subdivisions (c) and (d), the state shall  
27 pay to each county, from the General Fund and any federal funds  
28 received under Title XX of the federal Social Security Act available  
29 for that purpose, 65 percent of the cost of providing services under  
30 this article, and each county shall pay 35 percent of the cost of  
31 providing those services.

32 (c) For services eligible for federal funding pursuant to Title  
33 XIX of the federal Social Security Act under the Medi-Cal program  
34 and, except as provided in subdivisions (b) and (d), the state shall  
35 pay to each county, from the General Fund and any funds available  
36 for that purpose, 65 percent of the nonfederal cost of providing  
37 services under this article, and each county shall pay 35 percent  
38 of the nonfederal cost of providing those services.

39 (d) (1) For the period of July 1, 1992, to June 30, 1994,  
40 inclusive, the state's share of the cost of providing services under

1 this article shall be limited to the amount appropriated for that  
2 purpose in the annual Budget Act.

3 (2) The department shall restore the funding reductions required  
4 by subdivision (c) of Section 12301, fully or in part, as soon as  
5 administratively practicable, if the amount appropriated from the  
6 General Fund for the 1992–93 fiscal year under this article is  
7 projected to exceed the sum of the General Fund expenditures  
8 under Section 14132.95 and the actual General Fund expenditures  
9 under this article for the 1992–93 fiscal year. The entire amount  
10 of the excess shall be applied to the restoration. Services shall not  
11 be restored under this paragraph until the Department of Finance  
12 has determined that the restoration of services would result in no  
13 additional costs to the state or to the counties relative to the  
14 combined state appropriation and county matching funds for  
15 in-home supportive services under this article in the 1992–93 fiscal  
16 year.

17 (e) For the period during which Section 12306.15 is operative,  
18 each county’s share of the costs of providing services pursuant to  
19 this article specified in subdivisions (b) and (c) shall remain, but  
20 the County IHSS Maintenance of Effort pursuant to Section  
21 12306.15 shall be in lieu of that share.

22 SEC. 17. Section 12306 of the Welfare and Institutions Code,  
23 as amended by Section 9 of Chapter 37 of the Statutes of 2013, is  
24 repealed.

25 SEC. 18. Section 12306.1 of the Welfare and Institutions Code,  
26 as amended by Section 10 of Chapter 37 of the Statutes of 2013,  
27 is amended to read:

28 12306.1. (a) When any increase in provider wages or benefits  
29 is negotiated or agreed to by a public authority or nonprofit  
30 consortium under Section 12301.6, then the county shall use  
31 county-only funds to fund both the county share and the state share,  
32 including employment taxes, of any increase in the cost of the  
33 program, unless otherwise provided for in the annual Budget Act  
34 or appropriated by statute. No increase in wages or benefits  
35 negotiated or agreed to pursuant to this section shall take effect  
36 unless and until, prior to its implementation, the department has  
37 obtained the approval of the State Department of Health Care  
38 Services for the increase pursuant to a determination that it is  
39 consistent with federal law and to ensure federal financial  
40 participation for the services under Title XIX of the federal Social

1 Security Act, and unless and until all of the following conditions  
2 have been met:

3 (1) Each county has provided the department with  
4 documentation of the approval of the county board of supervisors  
5 of the proposed public authority or nonprofit consortium rate,  
6 including wages and related expenditures. The documentation shall  
7 be received by the department before the department and the State  
8 Department of Health Care Services may approve the increase.

9 (2) Each county has met department guidelines and regulatory  
10 requirements as a condition of receiving state participation in the  
11 rate.

12 (b) Any rate approved pursuant to subdivision (a) shall take  
13 effect commencing on the first day of the month subsequent to the  
14 month in which final approval is received from the department.  
15 The department may grant approval on a conditional basis, subject  
16 to the availability of funding.

17 (c) The state shall pay 65 percent, and each county shall pay 35  
18 percent, of the nonfederal share of wage and benefit increases  
19 negotiated by a public authority or nonprofit consortium pursuant  
20 to Section 12301.6 and associated employment taxes, only in  
21 accordance with subdivisions (d) to (f), inclusive.

22 (d) (1) The state shall participate as provided in subdivision (c)  
23 in wages up to seven dollars and fifty cents (\$7.50) per hour and  
24 individual health benefits up to sixty cents (\$0.60) per hour for all  
25 public authority or nonprofit consortium providers. This paragraph  
26 shall be operative for the 2000–01 fiscal year and each year  
27 thereafter unless otherwise provided in paragraphs (2), (3), (4),  
28 and (5), and without regard to when the wage and benefit increase  
29 becomes effective.

30 (2) The state shall participate as provided in subdivision (c) in  
31 a total of wages and individual health benefits up to nine dollars  
32 and ten cents (\$9.10) per hour, if wages have reached at least seven  
33 dollars and fifty cents (\$7.50) per hour. Counties shall determine,  
34 pursuant to the collective bargaining process provided for in  
35 subdivision (c) of Section 12301.6, what portion of the nine dollars  
36 and ten cents (\$9.10) per hour shall be used to fund wage increases  
37 above seven dollars and fifty cents (\$7.50) per hour or individual  
38 health benefit increases, or both. This paragraph shall be operative  
39 for the 2001–02 fiscal year and each fiscal year thereafter, unless  
40 otherwise provided in paragraphs (3), (4), and (5).

1 (3) The state shall participate as provided in subdivision (c) in  
2 a total of wages and individual health benefits up to ten dollars  
3 and ten cents (\$10.10) per hour, if wages have reached at least  
4 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
5 determine, pursuant to the collective bargaining process provided  
6 for in subdivision (c) of Section 12301.6, what portion of the ten  
7 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
8 increases above seven dollars and fifty cents (\$7.50) per hour or  
9 individual health benefit increases, or both. This paragraph shall  
10 be operative commencing with the next state fiscal year for which  
11 the May Revision forecast of General Fund revenue, excluding  
12 transfers, exceeds by at least 5 percent, the most current estimate  
13 of revenue, excluding transfers, for the year in which paragraph  
14 (2) became operative.

15 (4) The state shall participate as provided in subdivision (c) in  
16 a total of wages and individual health benefits up to eleven dollars  
17 and ten cents (\$11.10) per hour, if wages have reached at least  
18 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
19 determine, pursuant to the collective bargaining process provided  
20 for in subdivision (c) of Section 12301.6, what portion of the eleven  
21 dollars and ten cents (\$11.10) per hour shall be used to fund wage  
22 increases or individual health benefits, or both. This paragraph  
23 shall be operative commencing with the next state fiscal year for  
24 which the May Revision forecast of General Fund revenue,  
25 excluding transfers, exceeds by at least 5 percent, the most current  
26 estimate of revenues, excluding transfers, for the year in which  
27 paragraph (3) became operative.

28 (5) The state shall participate as provided in subdivision (c) in  
29 a total cost of wages and individual health benefits up to twelve  
30 dollars and ten cents (\$12.10) per hour, if wages have reached at  
31 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
32 determine, pursuant to the collective bargaining process provided  
33 for in subdivision (c) of Section 12301.6, what portion of the  
34 twelve dollars and ten cents (\$12.10) per hour shall be used to fund  
35 wage increases above seven dollars and fifty cents (\$7.50) per hour  
36 or individual health benefit increases, or both. This paragraph shall  
37 be operative commencing with the next state fiscal year for which  
38 the May Revision forecast of General Fund revenue, excluding  
39 transfers, exceeds by at least 5 percent, the most current estimate

1 of revenues, excluding transfers, for the year in which paragraph  
2 (4) became operative.

3 (e) (1) On or before May 14 immediately prior to the fiscal  
4 year for which state participation is provided under paragraphs (2)  
5 to (5), inclusive, of subdivision (d), the Director of Finance shall  
6 certify to the Governor, the appropriate committees of the  
7 Legislature, and the department that the condition for each  
8 subdivision to become operative has been met.

9 (2) For purposes of certifications under paragraph (1), the  
10 General Fund revenue forecast, excluding transfers, that is used  
11 for the relevant fiscal year shall be calculated in a manner that is  
12 consistent with the definition of General Fund revenues, excluding  
13 transfers, that was used by the Department of Finance in the  
14 2000–01 Governor’s Budget revenue forecast as reflected on  
15 Schedule 8 of the Governor’s Budget.

16 (f) Any increase in overall state participation in wage and benefit  
17 increases under paragraphs (2) to (5), inclusive, of subdivision (d),  
18 shall be limited to a wage and benefit increase of one dollar (\$1)  
19 per hour with respect to any fiscal year. With respect to actual  
20 changes in specific wages and health benefits negotiated through  
21 the collective bargaining process, the state shall participate in the  
22 costs, as approved in subdivision (c), up to the maximum levels  
23 as provided under paragraphs (2) to (5), inclusive, of subdivision  
24 (d).

25 (g) For the period during which Section 12306.15 is operative,  
26 each county’s share of the costs of negotiated wage and benefit  
27 increases specified in subdivision (c) shall remain, but the County  
28 IHSS Maintenance of Effort pursuant to Section 12306.15 shall  
29 be in lieu of that share.

30 SEC. 19. Section 12306.1 of the Welfare and Institutions Code,  
31 as amended by Section 11 of Chapter 37 of the Statutes of 2013,  
32 is repealed.

33 SEC. 20. Section 14186.35 of the Welfare and Institutions  
34 Code is amended to read:

35 14186.35. (a) Not sooner than March 1, 2013, in-home  
36 supportive services (IHSS) shall be a Medi-Cal benefit available  
37 through managed care health plans in a county where this article  
38 is effective. Managed care health plans shall cover IHSS in  
39 accordance with the standards and requirements set forth in Article

- 1 7 (commencing with Section 12300) of Chapter 3. Specifically,  
2 managed care health plans shall do all of the following:
- 3 (1) Ensure access to, provision of, and payment for IHSS for  
4 individuals who meet the eligibility criteria for IHSS.
  - 5 (2) Ensure recipients retain the right to be the employer, to  
6 select, engage, direct, supervise, schedule, and terminate IHSS  
7 providers in accordance with Section 12301.6.
  - 8 (3) Assume all financial liability for payment of IHSS services  
9 for recipients receiving said services pursuant to managed care.
  - 10 (4) Create a care coordination team, as needed, unless the  
11 consumer objects. If the consumer is an IHSS recipient, his or her  
12 participation and the participation of his or her provider shall be  
13 at the recipient’s option. The care coordination team shall include  
14 the consumer, his or her authorized representative, managed care  
15 health plan, county social services agency, Community Based  
16 Adult Services (CBAS) case manager for CBAS clients,  
17 Multipurpose Senior Services Program (MSSP) case manager for  
18 MSSP clients, and may include others as identified by the  
19 consumer.
  - 20 (5) Maintain the paramedical role and function of providers as  
21 authorized pursuant to Sections 12300 and 12301.
  - 22 (6) Ensure compliance with all requirements set forth in Section  
23 14132.956 and any resulting state plan amendments.
  - 24 (7) Adhere to quality assurance provisions and individual data  
25 and other standards and requirements as specified by the State  
26 Department of Social Services including state and federal quality  
27 assurance requirements.
  - 28 (8) Share confidential beneficiary data with the contractors  
29 specified in this section to improve care coordination, promote  
30 shared understanding of the consumer’s needs, and ensure  
31 appropriate access to IHSS and other long-term services and  
32 supports.
  - 33 (9) (A) Enter into a memorandum of understanding with a  
34 county agency and the county’s public authority or nonprofit  
35 consortium pursuant to Section 12301.6 to continue to perform  
36 their respective functions and responsibilities pursuant to the  
37 existing ordinance or contract until the implementation date set  
38 forth in subdivision (a) of Section 12300.7.

- 1 (B) Following the implementation date set forth in subdivision  
2 (a) of Section 12300.7, enter into a memorandum of understanding  
3 with the county agencies to perform the following activities:
- 4 (i) Assess, approve, and authorize each recipient's initial and  
5 continuing need for services pursuant to Article 7 (commencing  
6 with Section 12300) of Chapter 3. County agency assessments  
7 shall be shared with the care coordination teams established under  
8 paragraph (4), when applicable, and the county agency thereafter  
9 may receive and consider additional input from the care  
10 coordination team.
  - 11 (ii) Plans may contract with counties for additional assessments  
12 for purposes of paragraph (6) of subdivision (b) of Section 14186.
  - 13 (iii) Enroll providers, conduct provider orientation, and retain  
14 enrollment documentation pursuant to Sections 12301.24 and  
15 12305.81.
  - 16 (iv) Conduct criminal background checks on all potential  
17 providers and exclude providers consistent with the provisions set  
18 forth in Sections 12305.81, 12305.86, and 12305.87.
  - 19 (v) Provide assistance to IHSS recipients in finding eligible  
20 providers through the establishment of a provider registry as well  
21 as provide training for providers and recipients as set forth in  
22 Section 12301.6.
  - 23 (vi) Refer all providers to the California In-Home Supportive  
24 Services Authority or nonprofit consortium for the purposes of  
25 wages, benefits, and other terms and conditions of employment in  
26 accordance with subdivision (a) of Section 12300.7 and Title 23  
27 (commencing with Section 110000) of the Government Code.
  - 28 (vii) Pursue overpayment recovery pursuant to Section 12305.83.
  - 29 (viii) Perform quality assurance activities including routine case  
30 reviews, home visits, and detecting and reporting suspected fraud  
31 pursuant to Section 12305.71.
  - 32 (ix) Share confidential data necessary to implement the  
33 provisions of this section.
  - 34 (x) Appoint an advisory committee of not more than 11 people,  
35 and no less than 50 percent of the membership of the advisory  
36 committee shall be individuals who are current or past users of  
37 personal assistance paid for through public or private funds or  
38 recipients of IHSS services.
  - 39 (xi) Continue to perform other functions necessary for the  
40 administration of the IHSS program pursuant to Article 7

1 (commencing with Section 12300) of Chapter 3 and regulations  
2 promulgated by the State Department of Social Services pursuant  
3 to that article.

4 (C) A county may contract with an entity or may establish a  
5 public authority pursuant to Section 12301.6 for the performance  
6 of any or all of the activities set forth in a contract with a managed  
7 care health plan pursuant to this section.

8 (10) Enter into a contract with the State Department of Social  
9 Services to perform the following activities:

10 (A) Pay wages and benefits to IHSS providers in accordance  
11 with the wages and benefits negotiated pursuant to Title 23  
12 (commencing with Section 110000) of the Government Code.

13 (B) Perform obligations on behalf of the IHSS recipient as the  
14 employer of his or her provider, including unemployment  
15 compensation, disability benefits, applicable federal and state  
16 taxes, and federal old age survivor's and disability insurance  
17 through the state's payroll system for IHSS in accordance with  
18 Sections 12302.2 and 12317.

19 (C) Provide technical assistance and support for all  
20 payroll-related activities involving the state's payroll system for  
21 IHSS, including, but not limited to, the monthly restaurant  
22 allowance as set forth in Section 12303.7, the monthly cash  
23 payment in advance as set forth in Section 12304, and the direct  
24 deposit program as set forth in Section 12304.4.

25 (D) Share recipient and provider data with managed care health  
26 plans for members who are receiving IHSS to support care  
27 coordination.

28 (E) Provide an option for managed care health plans to  
29 participate in quality monitoring activities conducted by the State  
30 Department of Social Services pursuant to subdivision (f) of  
31 Section 12305.7 for recipients who are plan members.

32 (11) In concert with the department, timely reimburse the state  
33 for payroll and other obligations of the beneficiary as the employer,  
34 including unemployment compensation, disability benefits,  
35 applicable federal and state taxes, and federal old age survivors  
36 and disability insurance benefits through the state's payroll system.

37 (12) In a county where services are provided in the homemaker  
38 mode, enter into a contract with the county to implement the  
39 provision of services pursuant to the homemaker mode as set forth  
40 in Section 12302.

1 (13) Retain the IHSS individual provider mode as a choice  
2 available to beneficiaries in all participating managed care health  
3 plans in each county.

4 (14) In a county where services are provided pursuant to a  
5 contract, and as needed, enter into a contract with a city, county,  
6 or city and county agency, a local health district, a voluntary  
7 nonprofit agency, or a proprietary agency as set forth in Section  
8 12302 and in accordance with Section 12302.6.

9 (15) Assume the financial risk associated with the cost of payroll  
10 and associated activities set forth in paragraph (10).

11 (b) IHSS recipients receiving services through managed care  
12 health plans shall retain all of the following:

13 (1) The responsibilities as the employer of the IHSS provider  
14 for the purposes of hiring, firing, and supervising their provider  
15 of choice as set forth in Section 12301.6.

16 (2) The ability to appeal any action relating to his or her  
17 application for or receipt of services pursuant to Article 7  
18 (commencing with Section 12300) of Chapter 3.

19 (3) The right to employ a provider applicant who has been  
20 convicted of an offense specified in Section 12305.87 by submitting  
21 a waiver of the exclusion.

22 (4) The ability to request a reassessment pursuant to Section  
23 12301.1.

24 (c) The department and the State Department of Social Services,  
25 along with the counties, managed care health plans, consumers,  
26 advocates, and other stakeholders, shall develop a referral process  
27 and informational materials for the appeals process that is  
28 applicable to home- and community-based services plan benefits  
29 authorized by a managed care health plan. The process established  
30 by this paragraph shall ensure ease of access for consumers.

31 (d) For services provided through managed care health plans,  
32 the IHSS provider shall continue to adhere to the requirements set  
33 forth in subdivision (b) of Section 12301.24, subdivision (a) of  
34 Section 12301.25, subdivision (a) of Section 12305.81, and  
35 subdivision (a) of Section 12306.5.

36 (e) In accordance with Section 14186.2, as the provision of  
37 IHSS transitions to managed care health plans in a phased-in  
38 approach, the State Department of Social Services shall do all of  
39 the following:

1 (1) Retain program administration functions, in coordination  
2 with the department, including policy development, provider  
3 appeals and general exceptions, and quality assurance and program  
4 integrity for the IHSS program in accordance with Article 7  
5 (commencing with Section 12300) of Chapter 3.

6 (2) Perform the obligations on behalf of the recipient as  
7 employer relating to workers' compensation as set forth in Section  
8 12302.2 and Section 12302.21 for those entities that have entered  
9 into a contract with a managed care health plan pursuant to Section  
10 12302.6.

11 (3) Retain responsibilities related to the hearing process for  
12 IHSS recipient appeals as set forth in Chapter 7 (commencing with  
13 Section 10950) of Part 2.

14 (4) Continue to have access to and provide confidential recipient  
15 data necessary for the administration of the program.

16 (f) A managed care health plan shall not be deemed *to* be the  
17 employer of an individual in-home supportive services provider  
18 referred to recipients under this section for purposes of liability  
19 due to the negligence or intentional torts of the individual provider.

20 SEC. 21. Section 34 of Chapter 37 of the Statutes of 2013 is  
21 amended to read:

22 Sec. 34. (a) At least 30 days prior to enrollment of beneficiaries  
23 into the Coordinated Care Initiative, the Director of Finance shall  
24 estimate the amount of net General Fund savings obtained from  
25 the implementation of the Coordinated Care Initiative. This  
26 estimate shall take into account any net savings to the General  
27 Fund achieved through the tax imposed pursuant to Article 5  
28 (commencing with Section 6174) of Chapter 2 of Part 1 of Division  
29 2 of the Revenue and Taxation Code Article 5 (commencing with  
30 Section 6174).

31 (b) (1) By January 10—~~for~~ *of* each fiscal year after  
32 implementation of the Coordinated Care Initiative, for as long as  
33 the Coordinated Care Initiative remains operative, the Director of  
34 Finance shall estimate the amount of net General Fund savings  
35 obtained from the implementation of the Coordinated Care  
36 Initiative.

37 (2) Savings shall be determined under this subdivision by  
38 comparing the estimated costs of the Coordinated Care Initiative,  
39 as approved by the federal government, and the estimated costs of  
40 the program if the Coordinated Care Initiative were not operative.

1 The determination shall also include any net savings to the General  
2 Fund achieved through the tax imposed pursuant to Article 5  
3 (commencing with Section 6174) of Chapter 2 of Part 1 of Division  
4 2 of the Revenue and Taxation Code.

5 (3) The estimates prepared by the Director of Finance, in  
6 consultation with the Director of Health Care Services, shall be  
7 provided to the Legislature.

8 (c) (1) Notwithstanding any other law, if, at least 30 days prior  
9 to enrollment of beneficiaries into the Coordinated Care Initiative,  
10 the Director of Finance estimates pursuant to subdivision (a) that  
11 the Coordinated Care Initiative will not generate net General Fund  
12 savings, then the activities to implement the Coordinated Care  
13 Initiative shall be suspended immediately and the Coordinated  
14 Care Initiative shall become inoperative July 1, 2014.

15 (2) If the Coordinated Care Initiative becomes inoperative  
16 pursuant to this subdivision, the Director of Health Care Services  
17 shall provide any necessary notifications to any affected entities.

18 (3) For purposes of this subdivision and subdivision (d) only,  
19 “Coordinated Care Initiative” means all of the following statutes  
20 and any amendments to the following:

21 (A) Sections 14132.275, 14183.6, and 14301.1 of the Welfare  
22 and Institutions Code, as amended by Chapter 37 of the Statutes  
23 of 2013.

24 (B) Sections 14132.276, 14132.277, 14182.16, 14182.17,  
25 14182.18, and 14301.2 of the Welfare and Institutions Code.

26 (C) Article 5.7 (commencing with Section 14186) of Chapter  
27 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

28 (D) Sections 12302.6, 12330, 14186.35, and 14186.36 of the  
29 Welfare and Institutions Code.

30 (E) The amendments made to Section 12302.21 of the Welfare  
31 and Institutions Code, as made by Chapter 439 of the Statutes of  
32 2012.

33 (d) (1) Notwithstanding any other law, and beginning in 2015,  
34 if the Director of Finance estimates pursuant to subdivision (b)  
35 that the Coordinated Care Initiative will not generate net General  
36 Fund savings, the Coordinated Care Initiative shall become  
37 inoperative January 1 of the following calendar year.

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